



Ein Fonds der  
Stadt Wien

# Directive on the funding of the creative industry in Vienna

## 2015 – 2017

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“The directive is being translated from German into English. It is established that only the German language version of the directive is legally binding.”

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## 1 Introduction

Creative activity is a clearly visible element in the life of every city, that has the function of creating identity. Hence, the furtherance of creative potential is a focal point of economic policy for the City Council of Vienna. Vienna Business Agency. A service offered by the City of Vienna. (hereinafter referred to as the "Vienna Business Agency"), supports supplementing creativity with economic action, and thus the sustainable establishment of companies based on creative projects with the four funding programmes specified in this directive. The funding measures range from assistance in founding companies and the implementation of projects in terms of the object of the project to helping the start-ups succeed in the market.

## 2 Creative industry

### 2.1 AREAS OF THE CREATIVE INDUSTRY

The term creative industry as it is used in this directive covers the following areas: architecture, design, the art market, fashion, multi-media (incl. games), publishing, the music industry and the film industry (incl. animation and visualisation).

In addition, services that are explicitly aimed at professionals in the creative industry are likewise defined as an area of creative industry for the purposes of this directive.

### 2.2 CREATIVE INDUSTRY PROJECTS

Creative industry projects within the meaning of this directive shall mean projects for development, production and (media) distribution of creative products, services and processes from the fields of architecture, design, the art market, fashion, multimedia (incl. games), publishing, the music industry and the film industry (incl. animation and visualisation). The development, production and (media) distribution of services which are explicitly aimed at professionals in the creative industry shall likewise be understood as creative industry projects within the meaning of this directive.

## 3 Aims

It is the aim of the funding programmes in accordance with Clauses 4.1 to 4.4 of this directive to support the existing businesses and those yet to be established in areas of the creative industry outlined in Clause 2.1, in order to implement creative industry projects in accordance with Clause 2.2 which in particular

- create the expectation of an economic perspective and sustainability for the company or
- have a positive effect on innovation, growth and employment potential of the creative industry in Vienna or
- create added value for the quality of life in the City of Vienna.

Within the scope of these funding programmes, projects of eligible parties can therefore receive support, in accordance with Clause 6, in the form of cash incentives <sup>1</sup> if the projects largely conform to the criteria determined in Clause 5.1, as well as fulfil specific objectives of said funding programme.

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<sup>1</sup> Also designated "aid" or "subsidy" below.

## 4 Funding programmes

### 4.1 CREATIVE\_PIONEER

The aim of the creative\_pioneer programme is to support creative potential in Vienna and encourage graduates with relevant degrees and creative individuals who are already self-employed to set up businesses. The development of businesses is supported with the aid of the subsidy, and it is thus made possible for the aspiring business to initially position itself on the market, thereby raising the dynamics of the entire creative industry in Vienna as a whole in the process. The programme is intended to trigger positive growth, as well as positive effects on employment.

Through the creative\_pioneer funding programme the implementation of an economic business plan and the development of a business aimed at implementing a creative industry project in accordance with Clause 2.2 is eligible for support. The content of such a project needs to be significantly different from anything that already exists on the market. The implementation of a business plan is regarded as sustainable for the company if it is predominantly implemented by internal personnel and with the aid of external consulting services to develop the company (e.g. in matters relating to the business model, marketing or sales).

<b>Eligible applicants</b>	Founders of companies in accordance with Clause 6.2; A Viennese company in accordance with Clause 6.1, if it was established no more than 12 months prior to the date of application
<b>Basis for assessment</b>	Eligible, project-related costs in accordance with Clause 7
<b>Minimum basis for assessment</b>	EUR 10,000 per project
<b>Levels of funding</b>	70% of the eligible, project-related costs
<b>Max. duration of the project</b>	2 years
<b>Maximum level of funding</b>	EUR 50,000 per project
<b>Founding bonus</b>	An additional EUR 5,000 (see Clause 8.7.2)
<b>Bonus for employing female staff</b>	An additional EUR 5,000 (see Clause 8.7.1)
<b>Filing</b>	Ongoing funding programme
<b>Assessment procedure</b>	Procedure outlined in Clause 8.2
<b>Disbursement</b>	50% down payment in accordance with Clause 8.6.2 A final payment in accordance with Clause 8.6.3

## 4.2 CREATIVE\_PROJECT

The creative\_project funding programme is aimed at supporting the development of products, services or processes. This programme thus makes a considerable contribution towards improving the structure of the Viennese creative industry and aims to strengthen the competitive position and promote the growth of businesses in the creative industry in Vienna.

Projects that are supported within the scope of the creative\_project programme need to have a high quality concept in accordance with the criterion of the quality of projects outlined in Clause 5.1.1 which differs considerably from any projects already implemented by the filing company (or by individuals who represent or have represented the company) previously, in accordance with the criterion of additionality explained in clause 5.1.2.

Measures for company development available to founders, as promoted in the creative\_pioneer programme, are not taken into account for the basis of assessment for this programme.

<b>Eligible applicants</b>	A Viennese company in accordance with Clause 6.1 Founders of companies in accordance with Clause 6.2; Joint filing in accordance with Clause 6.4 is possible
<b>Basis for assessment</b>	Eligible, project-related costs in accordance with Clause 7
<b>Minimum basis for assessment</b>	EUR 10,000 per project
<b>Levels of funding</b>	50% of the eligible, project-related costs
<b>Max. duration of the project</b>	2 years
<b>Maximum level of funding</b>	EUR 150,000 per project
<b>Founding bonus</b>	An additional EUR 5,000 (see Clause 8.7.2)
<b>Bonus for employing female staff</b>	An additional EUR 5,000 (see Clause 8.7.1)
<b>Filing</b>	Ongoing funding programme
<b>Assessment procedure</b>	Procedure outlined in Clause 8.2
<b>Disbursement</b>	50% down payment in accordance with Clause 8.6.2 A final payment in accordance with Clause 8.6.3

### 4.3 CREATIVE\_TO MARKET

The aim of the creative\_to market funding programme is for creative industry products or services from Viennese creative industry companies to increasingly find their way onto the national and international market. Companies from the fields of the creative industry defined in Clause 2.1 receive help in developing new markets for existing goods and services, in entering the market with new goods and services or in designing new sales initiatives.

A prerequisite for the eligibility of a project submitted is a market development and/or sales strategy, the implementation of which constitutes the basis for the request for funding, not its creation. An implementation of the market development and/or sales strategy is sustainable for the company if it is predominantly implemented by internal personnel of the business.

This programme particularly promotes measures that are necessary for a service or a product for gaining entry to the market based on specific requirements of the target market. This may include the acquisition of software, the costs of adapting the operations to different standards and the costs of obtaining academic degrees or vocational qualifications.

<b>Eligible applicants</b>	A Viennese company in accordance with Clause 6.1 Joint filing in accordance with Clause 6.4 is possible
<b>Basis for assessment</b>	Eligible, project-related costs in accordance with Clause 7
<b>Minimum basis for assessment</b>	EUR 5,000 per project
<b>Levels of funding</b>	50% of the eligible, project-related costs
<b>Max. duration of the project</b>	1 year
<b>Maximum level of funding</b>	EUR 50,000 per project
<b>Bonus for employing female staff</b>	An additional EUR 5,000 (see Clause 8.7.1)
<b>Filing</b>	On-going funding programme
<b>Assessment procedure</b>	Procedure outlined in Clause 8.2
<b>Disbursement</b>	50% down payment in accordance with Clause 8.6.2 A final payment in accordance with Clause 8.6.3



#### 4.4 CREATIVE\_FOCUS

Incentives to integrate topics of particular relevance into economically sustainable projects are created by the creative\_focus programme with the aid of invitations to tender. In this way, selected topical focal points may be more strongly anchored in the Viennese creative industry. The invitations to tender forming part of the creative\_focus programme aim to ensure that topical focal points are set and may include additional criteria to those outlined in Clause 5.1 and/or restrictive provisions.

<b>Eligible applicants</b>	All eligible applicants in accordance with Clause 6 <sup>2</sup> ; Joint filing in accordance with Clause 6.4 is possible
<b>Basis for assessment</b>	Eligible, project-related costs in accordance with Clause 6
<b>Minimum basis for assessment</b>	EUR 10,000 per project
<b>Levels of funding</b>	A maximum of 60% of the eligible, project-related costs
<b>Max. duration of the project</b>	Is to be determined in the call for tenders, in any event, it may not exceed a maximum of 3 years
<b>Maximum level of funding</b>	EUR 200,000 per project <sup>3</sup>
<b>Founding bonus</b>	An additional EUR 5,000 (see Clause 8.7.2)
<b>Bonus for employing female staff</b>	An additional EUR 5,000 (see Clause 8.7.1)
<b>Filing</b>	Calls for tenders with a specific submission period
<b>Assessment procedure</b>	Procedure outlined in Clause 8.2
<b>Disbursement</b>	50% down payment in accordance with Clause 8.6.2 A final payment in accordance with Clause 8.6.3

##### 4.4.1 Special provisions and requirements in regard to the call for tenders

The invitations to tender will be published and announced in an appropriate way. The period between publication and the end of the application period has to be at least two months.

The invitation to tender has to specify at least the following points:

- The aim and subject of the invitation to tender
- The substantive criteria for the eligibility for funding and its level of importance
- Filing period
- Circle of eligible applicants
- Maximum level of funding
- Maximum intensity of funding
- The budget provided

<sup>2</sup> The circle of eligible parties may be limited in the invitation to tender.

<sup>3</sup> This amount may also be set lower during the course of preparing the call for tenders.

#### **4.5 COMBINING FUNDING PROGRAMMES**

Combining the funding programmes described in Clauses 4.1 to 4.4 shall only be possible if the periods of service are clearly defined and limited and there is no overlap of funding of identical cost components. Should, for example, the costs of certain marketing efforts have been taken into account for the basis of assessment for a project funded under the creative\_project scheme, it is not possible to receive funding from the creative\_to market funding programme for the same marketing efforts.

For the purpose of clarity and further explanation, the Vienna Business Agency may add a guide for the funding programmes specified in Clause 4. This will be published in a suitable format.

## 5 Essential provisions

### 5.1 CRITERIA

In addition to achieving the objectives detailed in Clause 3, in particular the following criteria are to be drawn upon for assessing the eligibility for funding.

#### 5.1.1 Quality of the project

Creative industry projects - with the exception of services for the creative industry outlined in Clause 2.2 - can be supported if they are based on a high quality creative/artistic concept for creating products, services or processes. Projects for developing a service for the creative industry need to be based on a high quality concept which assists entrepreneurs in the creative industry in implementing their creative/artistic activity.

The project needs to be embedded in a cohesive overall entrepreneurial concept. What is important is that the product or service to be developed can be reproduced and standardised.

#### 5.1.2 Additionality of funding

The funding should encourage the company to pursue additional and higher quality creative industry activities, in comparison to the past. This can manifest itself in the development of human or structural resources, in the creative performance level or in certain additional effects. By way of example, possible additional effects include the following:

- Does the present project differ, in terms of the required performance level, from the company's previous projects?
- Does the project develop a new market for the company, a new target group or a new line of business?
- Does the project differ significantly in its scope from previous projects of the company (e.g. in relation to costs)?

#### 5.1.3 Added value

The outlook of the project needs to be focused on sustainable development and having a positive impact upon the creation of (economic) value in Vienna. The main parts of the project are to be implemented in Vienna.

#### 5.1.4 Economic sustainability within the company filing the application

The project should bring about substantive economic sustainability for the company filing the application and is to be carried out essentially by the company itself bearing the risk for the achievement of the project goals, as well as the economic risk. This requirement is met when most of the creative and/or conceptual work is self-financed by the company and realised through the company's own resources.

### 5.1.5 Adequate project planning

Every project submitted for funding is to be presented as a project with a definite beginning and end, with specific and suitable project staff and project costs. Only projects that are described in full, demonstrate adequate project planning concerning the scope and content of the project, and thus make it possible to anticipate that the project will be implemented successfully, will be included in the assessment.

An application is to be broken down into results-orientated project steps. Every project step needs to end with a verifiable partial outcome ("milestone"), which needs to be documented and presented in the course of settling the project costs.

### 5.1.6 Sufficient resources

The company filing the application needs to be in a position to back up the project submitted with the necessary financial and staffing resources. Above all, the financial ability to perform, the qualified personnel and capable partners will be taken into consideration here.

## 5.2 PROJECTS THAT ARE NOT ELIGIBLE FOR FUNDING

The following types of project are not eligible for funding:

- Any projects which have already been refused funding under the same funding programme in a previous submission period, without it having been recommended that a new application be submitted (see Clause 8.2.9);
- projects on behalf of third parties;
- projects without the necessary rights and licences;
- projects with a purely (creative) artistic content, without a sustainable economic component (examples of such a project could include productions typical of the film, theatre or music industries);
- any projects which, if funded within the scope of this directive, would be funded as a replacement for being funded by other public funding;
- any projects that are already being funded from public funds in the form of cash incentives;
- any projects that are already being funded from other public funds of the City Council of Vienna.

## 5.3 TYPE AND SCOPE OF THE FUNDING

The funding will be provided in the form of cash subsidies. The funding programmes mentioned in Clauses 4.1 to 4.4 are being implemented subject to the available budget. All scopes of funding and the maximum funding levels mentioned in the funding programmes 4.1 to 4.4 are understood to be subject to the budgetary options and any restrictive provisions in regard to state subsidies. The executive body of the Vienna Business Agency may reduce the scope of such funding and maximum funding levels to an extent to be determined and to a period of time to be determined, and must announce the them.

#### 5.4 ACCUMULATION PROVISIONS

Funding within the scope of this directive is granted subject to the *de minimis* regulation as a legal basis. The limitations of the *de minimis* regulation are pertinent in regard to the actual funding level (see Appendix III).

In order not to exceed the cumulative limits and establish the possibility of funding within the scope of this directive, the applicants for funding are obliged to in particular provide the following details in their application:

- A list of all *de minimis* subsidies received for the fiscal year concerned, as well as the two previous fiscal years
- A list of all further subsidies applied for, granted or received for the project submitted

## 6 Eligible applicants

Subject to the following restrictions, any legal entities from the fields of the creative industry in accordance with Clause 2.1 shall generally be eligible for filing an application within the scope of this directive which

- plan to implement a creative industry project in accordance with Clause 2.2 at a location in Vienna;
- are able to present a clearance certificate from the City Treasury of the City Council of Vienna in regard to the fulfilment of the municipal duties and taxes pertinent to entrepreneurs (or are exempted from such obligations);
- and can also confirm that they possess the rights required to implement the project.

For certain types of legal entities the following definitions or limitations in regard to their eligibility to submit applications apply:

### 6.1 COMPANIES

Companies within the meaning of this directive shall mean economic units which pursue activities envisaged on a permanent basis, independently and in an organised manner, which are orientated towards achieving profit at their own risk, regardless of whether the principal aim, in this respect, is to distribute the profits or to largely reinvest the profits achieved (such as in the case of research organisations or social enterprises).<sup>4</sup>

Viennese companies are companies that have a permanent establishment in Vienna. A permanent establishment requires a fixed business establishment, through which the company can pursue its business activity, in whole or in part.<sup>5</sup>

### 6.2 FOUNDERS OF COMPANIES

Founders of companies within the meaning of this directive shall mean legal entities which have begun to establish a Viennese company within the meaning of Clause 6.1.

They can receive funding if they

- implement and confirm the establishment of the company within six months<sup>6</sup> of any notification on the granting of funding under Clause 8.4; and
- possess the necessary rights (e.g. licences) and authorisations to implement the project or the company that is in the process of being set up will possess such rights or authorisations (because, for example, a specifically designated individual who has agreed to be appointed is appointed as an executive director under trade law).

<sup>4</sup> Further details are given in Appendix I.

<sup>5</sup> Further details are given in Appendices I and II.

<sup>6</sup> Vienna Business Agency may also set a shorter deadline in the notification in accordance with Clause 8.4 on the granting of funding in justified exceptional cases.

### **6.3 PARTIES NOT ENTITLED TO FILE AN APPLICATION**

The following parties are not entitled to file an application:

- regional corporations governed by public law, statutory representatives of professional interests and representatives of professional interests operating based on private law;
- legal entities that are predominantly financed by public funds and cannot plausibly and comprehensibly show that the granting of funding within the scope of this directive will not lead to it being a substitute for other public funds.

### **6.4 JOINT FILING/PARTNER APPLICATION**

An application for funding for programmes covered by this directive may be filed jointly in regard to the same project, also by multiple eligible parties. In such a case, a funding relationship will be established with each of the applicants participating. In that respect, the collective funding applicants shall be required to appoint one of the legal entities (a leading partner), which qualifies as a company or company founder in accordance with Clause 6.1 or 6.2 to represent the funding applicants vis-à-vis the Vienna Business Agency, and to authorise such representation.

- **Leading application**  
The company details of all the funding applicants are to be specified in the leading application when submitting an application. The allocation of project steps, project costs, the project risk, project results and project rights, as well as the allocation of funding among the applicants for funding, is to be regulated in writing by way of a co-operation agreement and disclosed to the Vienna Business Agency.
- **Partner form**  
In the course of filing the application, the participation of any further partners is to be disclosed by submitting a partner form. The contribution towards the practical implementation, as well as the financial contribution and the role of any partner needs to be clearly specified. The skills and tasks, as well as the costs and funding contributions of the participating partners, are to be listed on the partner form and regulated in writing, as well as disclosed to the funding body.
- **Leading partner**  
The leading partner needs to have a permanent establishment in Vienna. Such partner will be authorised by the co-operation partners and shall take on the task of co-ordinating the submission of the application and - in the event of funding being granted - the management of the project, as well as the communication with the funding body and the partners for the entire duration of the project. This shall also include checking the reports and account statements of all the partners based on the details provided by the co-operation partners. The leading partner shall be responsible for passing the funds on to the co-operation partners in the appropriate manner.

The leading partner shall, moreover, be required to ensure that any changes are notified in good time and agreed with the funding body, and that both the settlement and reporting are complete and comply with the requirements of the present directive, as well as any accounting guidelines if applicable<sup>7</sup>.

Further details on the circle of eligible parties can be found in Clause 4 of the funding programmes.

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<sup>7</sup> If applicable, accounting guidelines will be available on the Internet at [www.wirtschaftsagentur.at](http://www.wirtschaftsagentur.at).



## 7 Eligible costs

### 7.1 ESSENTIAL PROVISIONS REGARDING THE ELIGIBILITY OF COSTS

- Eligible costs of the funding programmes in accordance with Clauses 4.1 to 4.4 shall exclusively be those as per the cost categories defined below in Clauses 7.2 to 7.6.
- Only costs actually incurred that are directly connected with the project submitted for funding, that are to be borne by the applicants for funding and are evidenced will be acknowledged as a basis for assessment.
- The costs of developing the company (industry-specific basic equipment, developing a trademark, tax consultancy and legal advice) shall only be eligible under the creative\_pioneer programme in accordance with Clause 4.1.
- The costs of marketing and promotion shall be limited to market entry costs or initial measures, such as consultancy fees, agency services, publications and trade fair visits.
- Only net costs may be taken into account. In so far as applicants for funding are proven not to be entitled to deduct input tax and the VAT is therefore actually to be borne by them, this can be included in the basis for assessment.
- Costs will only be included in the basis for assessment up to an amount recognised as being common for the locality.
- Appropriate accounting documentation that is in compliance with the statutory regulations is to be presented as evidence of internal costs. Evidence of external costs needs to be provided by means of invoices – that are in compliance with the statutory regulations – which need to be of a total net amount of at least EUR 50.00.
- That the costs are actually incurred (payment) for the project funded is – except in the case of payments to account in accordance with Clause 8.6.2, as well as in the case of bonuses in accordance with Clause 8.7 – a prerequisite for the funding being paid out. In the case of payments to account, the fact that the costs have actually been incurred is to be proven along with the final invoice being issued. Evidence of the costs is to be provided with the final invoice by means of invoices and payment receipts.
- The timeframe for the project specified is to be adhered to, and shall constitute the period of time within which the costs are recognised, wherein this period of time shall begin, at the earliest, with the application being filed (see Clause 8.1.3). In justified exceptional cases, the Vienna Business Agency may grant an extension of the project period, and thus the period during which costs are recognised, based on a written request to be submitted prior to the expiry of the project term originally set. The period for the recognition of costs shall, in any event, be limited to the maximum project duration, which is specified in the case of the funding programmes in Clause 4.
- Should the non-recognition of costs in the assessment process or at the time of the final invoice lead to the minimum basis for assessment of the respective funding programme not being attained, the project shall be eliminated from the assessment process or a revocation shall be issued during the course of final invoicing.

## 7.2 INTERNAL PERSONNEL EXPENSES

Internal personnel expenses of project employees and in the case of small companies also shareholders co-operating actively on the project shall receive funding.

### 7.2.1 Project employees

Internal personnel expenses for employees will be calculated on the basis of the gross annual salaries plus direct subsidiary payroll expenses and also overheads.

The following cost components shall form the basis for assessing the personnel expenses:

- Gross annual salary: Gross monthly salaries for 14 months (incl. "13th/14th salary")<sup>8</sup>
- Direct subsidiary payroll expenses are taken into account at a flat-rate surcharge of 32% over and above the gross annual salary, and shall comprise social security contributions, such as the social security employer's contributions towards health insurance and employment insurance, any amounts added to the latter, as well as municipal tax and the employees' pension fund.
- The costs of payments in kind, bonuses and other benefits which do not constitute special payments that can be allocated to the salary either directly or regularly, as well as severance payments, cannot be taken into account here.
- Overheads will be taken into account at a flat rate surcharge of 20% on the gross salary incl. direct subsidiary payroll expenses, and shall in particular include pro rata administrative, energy and repair and maintenance costs, as well as pro rata costs for operating resources and business premises.

The following calculation formulae are to be applied for calculating the hourly rate of employees co-operating in the project to be funded:

Personnel expenses	=	Gross annual salary plus 32% direct subsidiary payroll expenses plus 20% overheads
Annual working hours	=	Weekly commitment in hours multiplied by 41 weeks on average = effective working hours <sup>9</sup>
Hourly rate	=	Personnel expenses divided by annual working hours
Eligible personnel expenses	=	Hourly rate multiplied by the project hours invested

<sup>8</sup> Applicable subject to the prerequisite that the individual is employed all year round. Otherwise the 13th and 14th salaries need to be taken into account on a pro rata basis. No 13th or 14th salary can be taken into account for individuals not employed in Austria.

<sup>9</sup> This amount is the maximum number of annual working hours per person to be drawn upon for assessing the level of funding – overtime is thus not to be taken into consideration.

**Example:**

Gross monthly salary of the employee Mag. <sup>a</sup> Z. in the amount of		EUR 2,500.00
= Gross annual salary, incl. 13th/14th salary	2,500 x 14	EUR 35,000.00
+ a flat rate of 32% on account of direct subsidiary payroll expenses	35,000 x 0.32	EUR 11,200.00
= Sub-total		EUR 46,200.00
+ a flat rate of 20% on account of pro rata overheads	46,200 x 0.20	EUR 9,240.00
<b>= Personnel expenses for Mag.<sup>a</sup> Z. p.a.</b>		<b>EUR 55,440.00</b>
<hr/>		
Weekly commitment in hours as per the employment contract of Mag. <sup>a</sup> Z. to the extent of		40 hrs
= <b>Annual working hours</b> therefore for 41 weeks p. a.	40 x 41	1,640 hrs
= <b>Hourly rate for Mag.<sup>a</sup> Z.</b>	55,440 / 1,640	<b>EUR 33.80</b>
<hr/>		
Co-operation of Mag. <sup>a</sup> Z. with the project filed in the year in question		612 hrs
= <b>Eligible personnel expenses</b>	33.80 / 612	<b>EUR 20,685.60</b>

### 7.2.2 Shareholders

Work carried out on the part of the entrepreneur may be included in the basis for assessment as imputed employer's salary. The hourly rate to be recognised for shareholders actively co-operating in the project, in the case of small companies, shall amount to a maximum of EUR 40.00. The eligible annual working hours shall be limited to a weekly commitment of 40 hours multiplied by 41 weeks' average effective working time.

### 7.2.3 Timesheets

Timesheets are to be kept for all project employees during the entire duration of the project.

## 7.3 EXTERNAL PERSONNEL EXPENSES AND SERVICES OBTAINED FROM THIRD PARTIES

Costs of services obtained from third parties shall mean any costs invoiced to the funding applicants by third parties in the course of implementing the project (for example, consultancy and training costs, the costs of protecting proprietary intellectual property (excl. fees), the costs of any other services, etc.).

In particular the company's overheads or services that are made use of on an on-going basis or at regular intervals, such as tax consultancy, legal advice, marketing or advertising may not be included.

The services charged need to be described precisely on invoices or debit notes and, if applicable, need to be determined exactly in hours and quoted at an hourly rate.

#### **7.4 MATERIAL EXPENSES**

Material expenses shall mean any individual costs arising in the course of the project funded which are derived from payments to third parties and which do not constitute any services obtained from third parties.

This shall, for example, include the costs of working materials or materials required for manufacture (raw materials, semi-finished products, components, etc.), the costs of supplies (e.g. materials, screws, nails, etc.), operating resources (except for sources of energy and imputed costs) and test materials (consumables) which can be clearly allocated to the development and creation of the project submitted for funding.

#### **7.5 INVESTMENTS IN MATERIAL ASSETS**

Investments in material assets shall include goods that can be used in the long term for production or the provision of services which are shown on the balance sheet as tangible fixed assets and can usually be depreciated over their useful life. Their acquisition costs – with the exception of any acquisition costs for property, buildings and vehicles, as well as for mere replacement investments <sup>10</sup> – shall be included in the basis for assessment.

Should investments in material assets be acquired by way of a rental or leasing agreement, the pro rata rental or leasing expenses may be included in the basis for assessment during the period of the project.

#### **7.6 TRAVELLING EXPENSES**

Travelling expenses shall include costs for travelling to and from the destination, as well as the cost of any overnight stays, as long as the journey is carried out on behalf of and on account of the funding applicants. The costs of catering, diets and any other ancillary expenses associated with the journey may not be included.

Multiple journeys scheduled to the same destination are to be justified in detail. The maximum number of journeys eligible for funding per destination is limited in funding programmes 4.1 to 4.3 to five journeys.

The cheapest means of transport in each case that is in line with the purpose and aim of the journey is to be chosen for the journey to and from the destination.<sup>11</sup> For the overnight stay at the destination costs totalling a maximum amount of EUR 150.00 per night may be included.

<sup>10</sup> Replacement investments shall mean investments that exclusively serve the purpose of replacing capital goods that have been eliminated and do not have any significant additional or new functions in comparison to investments already made.

<sup>11</sup> In the event of a private car being used, a driver's logbook is to be presented and the official mileage allowance applied.

## 7.7 NON-ELIGIBLE COSTS

Costs that are not eligible in any event include:

- ongoing costs incurred for maintaining the usual business operations (in particular commercial and pub or restaurant rents, car pool fees, etc.) and for the operational infrastructure, with the exception of the industry-specific basic equipment in the creative\_pioneer programme in accordance with Clause 4.1.
- Costs incurred within the scope of a project undertaken on behalf of a third party
- Internal and external personnel expenses that are purely for the time required for travelling to and from the destination
- Costs that do not have a direct causal connection with the project funded
- Costs of placing advertisements
- Costs for advice in regard to the application and funding
- Costs within the scope of ongoing production
- Costs incurred prior to submission of the application
- Costs that are deemed ineligible based on relevant regulations under EU law
- Any rebates, cash discounts or other privileges not claimed

## 8 Procedure and selection of the projects to be funded

### 8.1 FILING

#### 8.1.1 Online submission

Applications may exclusively be submitted online, via the Vienna Business Agency website at [www.wirtschaftsagentur.at](http://www.wirtschaftsagentur.at). The method of proceeding outlined by the Vienna Business Agency on its website, in particular in regard to the certificate of authenticity in regard to the application that is to be signed in a legally binding manner or an electronic signature is to be adhered to. Should no legally binding electronic signature be provided, the certificate of authenticity in regard to the application is to be submitted (in paper form) in writing, signed in a legally binding manner.

#### 8.1.2 Filing your application in good time

The ongoing funding programmes of this directive in accordance with Clauses 4.1 to 4.3 comprise multiple submission periods during the period of validity of the directive in question, which seamlessly follow on from one another.

Invitations to tender in the creative\_focus programme in accordance with Clause 4.4 include a definite submission period.

Submission periods commence as at the appointed date of commencement and end with the designated submission date. The dates will be announced on the website of the Vienna Business Agency.

#### 8.1.3 Submission date/recognised expenses

No significant steps of implementation may have been taken for the project submitted for funding as at the submission date. The costs of the project can, in any event, only be recognised for achievements from the submission date (this being the date of receipt of the application).

#### 8.1.4 One-off submission opportunity

Projects that have already been submitted to the Vienna Business Agency previously for a funding programme cannot be re-submitted for the same funding programme. Excepted therefrom are applications in accordance with Clause 8.2.9.

#### 8.1.5 Filing language

Applications are to be filed in German or English.

### 8.2 ASSESSMENT OF THE APPLICATIONS

#### 8.2.1 Basis of assessment

Applications are assessed exclusively on the basis of the application documents that are

available electronically or in writing, which need to provide an adequate basis for the assessment in accordance with the directive.

Notwithstanding the latter, the Vienna Business Agency may, if necessary, request the applicant for funding to provide additional details on the application documents available, either in writing, verbally or in the form of a hearing on the application or certain parts of it.

In the case of projects or parts of them that have already been examined and evaluated by other public funding bodies, the Vienna Business Agency may include such assessments in its own assessment.

#### 8.2.2 Formal preliminary assessment

In the case of all applications in all funding programmes the Vienna Business Agency performs a preliminary assessment, in regard to which the focus is in particular on the fulfilment of formal criteria, the existence of an adequate basis for assessment and any individual conditions required being met. In the event of major shortcomings, the application will be eliminated from the rest of the assessment process.

#### 8.2.3 Assessment of the content of the applications/assessment criteria

In order to assess applications, the criteria in accordance with Clause 5.1 and the objectives specified in funding programmes 4.1 to 4.4 are drawn upon. Which criteria are applied in each case, with which weighting, when assessing the applications filed depends upon the nature of the respective funding programme and may be amended by further guidelines.

In order to achieve the most comprehensive transparency possible, the Vienna Business Agency publishes the respective criteria to be drawn upon on the Internet, specifying their characteristics and weighting in detail.

#### 8.2.4 Assessment/jury

The applications are assessed by the Vienna Business Agency, which – depending upon the objectives and claims of the respective funding programme, the nature of the projects to be assessed and the scope of the funding to be granted – obtains additional opinions from experts or consults a jury if necessary.

The composition of a specialist jury is published in a suitable form and may be enquired about at the Vienna Business Agency. Prior to the commencement of the assessment funding applicants will have a single opportunity to name a maximum of two individuals or institutions forming part of the jury to be excluded from assessing their application if circumstances exist which would cast doubt on the impartiality of their involvement in the assessment.

### 8.2.5 Confidentiality obligation

All individuals appointed by the Vienna Business Agency to assess and check applications are subject to a stringent confidentiality obligation.

### 8.2.6 Ranking

Applications that are submitted to the Vienna Business Agency in full will be ranked in accordance with the result of the assessment as long as they have received 25% of the possible assessment points in each case in the respective funding programme.

### 8.2.7 Funding proposal

The Steering Committee of the Vienna Business Agency will thereafter be presented with the list of all applications, as well as a funding proposal, in accordance with the ranking and in line with the budgetary constraints.

### 8.2.8 Second chance

Applications which can no longer be included in a funding proposal of an ongoing funding programme for budget reasons will (except in the case of the last funding proposal based on this directive) be included once more in the next round, to assess them together with the new applications received.

### 8.2.9 Re-filing

Applications in the current programmes, the quality of which has been deemed worthy of funding in the assessment procedure in accordance with Clause 5.1.1, but for which funding has been declined due to deficiencies in the project planning, or the financial or personnel resource structures, may be re-submitted again in the next round in an improved form following an explicit recommendation to re-file by the Vienna Business Agency in the notification on the decision in accordance with Clause 8.4. They will be assessed along with the newly accepted applications.

## **8.3 DECISION-MAKING PROCESS**

The Steering Committee of the Vienna Business Agency will take a decision on the funding proposal presented by the Vienna Business Agency and will recommend the Municipal Administration of the City Council of Vienna to grant funding or reject the applications. The decision on the granting of funding or rejection of an application will be taken by the Municipal Administration of the City Council of Vienna based on the recommendation of the Steering Committee of the Vienna Business Agency.

## **8.4 NOTIFICATIONS**

The funding applicants will receive the notification on the decision taken by the Municipal Administration of the City Council of Vienna and any conditions for the granting of funding in writing from the Vienna Business Agency. The amount of funding specified therein is always the maximum amount. In the event of the application being unsuccessful, the grounds for rejection will be explained.



## **8.5 PUBLICATION**

In the event of funding being granted, the Vienna Business Agency shall be entitled to publish the identity of the entrepreneurs filing the funding applications without restriction, along with the designation and a short description of the project funded, the amount of funding and the reasons for selecting the project funded.

## **8.6 DISBURSEMENT**

### **8.6.1 Conditions**

The granting of funding may be bound to conditions. Should such conditions not be linked to a particular date or event, their fulfilment is to be proven before any funding is paid.

### **8.6.2 Advance payment**

Unless a conflicting condition is contained in the notification of funding being granted in accordance with Clause 8.4 (see Clause 8.6.1), once the project funded has been commenced and the Vienna Business Agency has been notified of this a payment to account of an amount that is in line with the respective nature of the project will be paid out, up to a maximum of 50% of the maximum amount of the subsidy specified in this notification. Should insolvency proceedings be instituted against the company no payment to account can be made.

### **8.6.3 Final payment**

Once the final report has been examined (see Clause 9.2), the subsidy will be recalculated based on the actual costs recognised as being eligible for funding. Should the respective applicable minimum basis for assessment in accordance with Clauses 4.1 to 4.4 not be met, the funding will be revoked. Should the recalculated subsidy fall short of the amount specified in the notification (see Clause 8.4), any payments to account already made will be deducted from this recalculated subsidy – or otherwise from the maximum amount of the subsidy according to the notification.

Any positive balance will be transferred to the funding applicant, any negative balance is to be repaid upon request within 14 days. In the event of default, arrears interest will be payable, as decreed by the Municipal Directorate on 21 July 2010, cf. MDS-K-876/10 or otherwise on an alternative legal basis.

## **8.7 BONUSES**

The funding programmes may stipulate an increase in funding in the form of a bonus that is not linked to the amount of the funding for projects or companies that fulfil the following criteria in accordance with Clauses 8.7.1 or 8.7.2. Any revocation of the funding shall also include the revocation of any bonuses granted.

### 8.7.1 Bonus for employing female staff

Should the implementation of the creative part of the project be carried out predominantly by internal female staff, a bonus of EUR 5,000 will be granted. The bonus will be paid out if evidence is provided in the course of the final settlement that the underlying requirements have been fulfilled.

### 8.7.2 Founding bonus

Should the company submitting the application be a company that has been established during the 12 months prior to submission (wherein the date of the submission is pertinent) or a company that is in the process of being established, a one-off bonus of EUR 5,000 may be granted.

The bonus will be paid out once evidence of the establishment of the company (in the period pertinent in accordance with Clause 6.2) is provided.

In the case of joint submissions in accordance with Clause 6.4 only the leading partner shall be entitled to the founding bonus.

### 8.7.3 Disbursement in the case of joint filing

Clauses 8.6 up to and including 8.7.2 shall also apply to joint submissions in accordance with Clause 6.4. The entire amount of funding will be paid out to the leading partner for all partners, with the effect of discharging the debt. The leading partner will be obliged to pass on the proportions of the amount of funding without delay in accordance with the written announcement of the Vienna Business Agency to the entitled partners. In the event of the leading partner not complying with the obligation to forward funding, the partners shall only be entitled to assert any claims vis-à-vis the leading partner. In exceptional cases the individual amounts of funding may be paid out to the partners directly on the basis of objective, justifiable grounds. The final amount of funding attributable to the respective partners will be recalculated based on the final settlement and taking into account the provisions of subsidy law and the provisions of the present directive. The entire amount of funding shall be limited to the maximum amount of the subsidy.

## 9 Obligations to provide information and archive documents, as well as reporting obligations

### 9.1 PROGRESS REPORT

In the event of funding being granted, an informative progress report must be presented bi-annually, without the necessity of a reminder (as from commencement of the project). Should forms be made available for that purpose, these are to be used, completely filled in, and transmitted – if possible, electronically.

### 9.2 FINAL REPORT, INCL. FINAL SETTLEMENT

In the event of funding being granted, the funding applicant must submit an informative final report, without the necessity of a reminder, no later than three months after the project funded has been completed. Should forms be provided for that purpose, these are to be used and filled in completely. One component of a final report is in particular the final settlement for the costs of the project actually incurred. The basis for this is formed by the time sheets from the company receiving funding, along with any invoices collected and payment receipts.

### 9.3 MONITORING AND EVALUATION

Substantial qualitative and/or quantitative changes relevant to the success of the project funded during the course of the project need to be reported to the Vienna Business Agency without delay and without the necessity of a reminder. Also after the project has been concluded, the funding applicant shall be obliged to answer any questions arising in connection with the project submitted for funding and the general development of the company funded by the Vienna Business Agency in writing, without delay and in full, and – if required to do so – provide any documents that need to be examined and supporting documentation that may be requested. This obligation shall end ten years after the final funding payment has been made in accordance with Clause 8.6.3.

### 9.4 PUBLICATION

Should funding be granted, the funding applicants need to point out that the implementation of the project has been funded by the Vienna Business Agency using funds of the City Council of Vienna in any publications and whenever the project is mentioned in the media and advertisement. The logo of the Vienna Business Agency is to be added wherever it is expedient and reasonable to do so, as perceived by the public.

### 9.5 ARCHIVAL OF DOCUMENTATION, INSPECTION

The funding applicants shall be obliged to archive any documents transmitted in connection with the application filed and any documents that are pertinent to the latter, as well as any documents of the Vienna Business Agency relevant to the granting of the funding and its administration which have been transmitted to the funding applicants by the Vienna Business Agency in proper form, carefully and in an expedient form for a period of ten years as from the final payment being made in accordance with Clause 8.6.3.

Funding applicants shall be obliged to make such documents available to the Vienna Business Agency, the Steering Committee of the City Council of Vienna, the City Audit Court of the City of Vienna, the Austrian Audit Court, the institutions of the European Union or officers of the aforementioned bodies at any time upon request, either as originals or copies, and transmit them to said organisations.

The Vienna Business Agency, the Steering Committee of the City Council of Vienna, the City Audit Court of the City of Vienna, the Austrian Audit Court, the institutions of the European Union or the officers of the aforementioned bodies shall be entitled, within the archival period, to request the funding applicant to transmit all the aforementioned documents electronically or make them available for inspection in electronic form at any time.

## 10 Revocation of funding granted

### 10.1 GROUNDS FOR REVOCATION (10 YEARS)

In the event of one or more of the items mentioned below occurring and becoming known, the funding granted may be revoked up to ten years after the final payment has been made, in accordance with Clause 8.6.3, if

- a. the funding is/has been used inappropriately;
- b. the prerequisites or conditions for the granting of funding in accordance with this directive do not exist or are not fulfilled;
- c. checks carried out by the Vienna Business Agency, the Steering Committee of the City Council of Vienna, the City Audit Court of the City of Vienna, the Austrian Audit Court, the institutions of the European Union or officers of the aforementioned bodies have been refused or impeded or reporting obligations in connection with the project funded have been infringed;
- d. details on circumstances which were decisive for the granting of the funding subsequently transpire to be incomplete or untrue, do not exist or have lapsed, in particular if, contrary to the details given in the application,
  - in the case of funding awarded to founders of companies in accordance with Clause 6.2 the company has not been established within six months of funding being granted; or
  - the project funded is/has been implemented outside Vienna; or
  - the chronological course of the project has been considerably delayed without any sound reasons being put forward for the delay; or
  - the project is changed so considerably that it is no longer in line with the basis for the funding granted in this form; or
  - the project is not being/has not been undertaken;
- e. a meaningful final report in accordance with Clause 9.2 is not presented in good time or such a report cannot be reliably and conclusively checked (for example due to a lack of or insufficient documents relevant to the settlement) and an order for improvement in this respect has not been complied with within a reasonable period of time;
- f. evidence of the orderly archival of documents in accordance with Clause 9.5 has not been provided or the documents archived are not transmitted to the bodies named in Clause 9.5 immediately and in full upon request or – in the event of archival and availability for inspection electronically being requested – the possibility to inspect those documents electronically does not exist;
- g. the funding applicant revokes a declaration of consent in accordance with Clause 11.

## **10.2 GROUNDS FOR REVOCATION (4 YEARS)**

In the event of one or more of the items mentioned below occurring and becoming known, the funding granted may be revoked up to four years after the final payment has been made, in accordance with Clause 8.6.3, if

- a. the company funded relocates substantial parts of its economic activities highly relevant to creating added value that previously took place in Vienna to a location outside Vienna;
- b. the business of the company funded or the company itself is sold, unless the purchaser or legal successor has declared in writing without delay that it wishes to enter into the funding relationship with all rights and obligations and its entering into it is approved by the Vienna Business Agency.
- c. the participation quotas of the company funded change significantly and the purpose of the funding is thereby no longer guaranteed;
- d. the business of the company funded is discontinued or permanently closed down or the company funded goes into liquidation.

## **10.3 REVOCATION IN THE CASE OF JOINT SUBMISSION**

In the case of grounds for revocation in accordance with Clause 10.1 to 10.2 the revocation of the funding granted may only be pronounced vis-à-vis that partner to whom the grounds for revocation apply if they do not affect all partners.

## **10.4 PRONOUNCEMENT OF THE REVOCATION**

Should there be grounds for revocation, such grounds for revocation are to be pronounced no later than six months after the expiry of the respective deadlines specified in Clauses 10.1 and 10.2.

## **10.5 REPAYMENT**

In the event of revocation, any payment to account made towards the subsidy or the subsidy paid out is to be repaid within two weeks upon request. In the event of default, arrears interest will be payable, as decreed by the Municipal Directorate on 21 July 2010, cf. MDS-K-876/10 or otherwise on an alternative legal basis. In the event of grounds for revocation existing in accordance with Clause 10.2 b., c. and d. and evidence of the actual costs incurred within the scope of final settlement in accordance with Clause 9.2, the reclamation shall only be made to the extent to which goods capable of being capitalised have been procured within the scope of the funding whose statutory depreciation period has not yet come to an end as at the date of the grounds for revocation occurring. The reclamation will be effected pro rata in relation to the remaining depreciation period. The right to assert any further claims under civil law shall not be affected thereby.

## **10.6 REPORTING REQUIREMENT**

Funding applicants shall be obliged to make any quantitative or qualitative changes in connection with the project submitted for funding and/or the company funded known to Steering Committee Division 5 – Finance Office, Ebendorferstraße 2, 1082 Vienna or the Vienna Business Agency in writing without delay.

## 11 Data privacy

Funding applicants shall be obliged, in regard to any data concerning them which

- is contained in any requests for the granting of funding or
- emerge during the processing or monitoring of the funding,

to submit any declarations which are necessary, pursuant to the data privacy law in regard to the legitimacy of using the data within the meaning of Sec. 7 Austrian Data Privacy Act 2000 (*DSchG*), in particular for computer-assisted processing or for transmission to

- the Steering Committee, the City Audit Court of the City of Vienna or any other bodies or institutions, in particular funding agencies of the City Council of Vienna,
- bodies or institutions, in particular funding agencies of the Republic of Austria or a Federal State of the Republic of Austria
- or bodies or institutions of the European Union.

The funding applicants thus in particular undertake

- in regard to non-sensitive data, to grant consent pursuant to Sec. 8(1)(2) Austrian Data Privacy Act 2000 (*DSchG*) and
- in regard to sensitive data to grant consent pursuant to Sec. 9(6) Data Privacy Act 2000 (*DSchG*);

and to in particular do so by signing the deeds transmitted by the Vienna Business Agency.

The funding applicants shall be entitled to revoke their declarations of consent by means of a written notification directed to the Vienna Business Agency at any time. In the event of a declaration of consent being revoked, any use of data which is illegitimate without the relevant consent will immediately be ceased by the Vienna Business Agency upon receipt of the revocation.

The revocation of a declaration of consent by the funding applicant may lead to the revocation of the funding and to repayment of any subsidies already paid out being demanded.

## 12 Legal basis/legal claim

The national legal basis for the present directive is the decision of the Viennese Municipal Council of 19/12/2014, Pr.Z. 03587-2014/0001-GFW.

The basis for the present directive under EU law shall be formed by Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, published in the Official Journal of the European Union L 352/1, on 24/12/2013 as amended or any provisions substituting the latter.

The decision to award the subsidy is made in accordance with the available budgetary means based on this directive and, if applicable, based on the text of the invitation to tender published within the scope of an invitation to tender in accordance with Clause 4.4.

There is no legal claim to funding being granted.

## 13 Period of validity

This directive shall be valid for submissions dated between 01/01/2015 to 31/12/2017.

## 14 Funding processing authority

Vienna Business Agency. A service offered by the City of Vienna.  
Mariahilfer Straße 20 | 1070 Vienna  
Tel. +43 (1)4000 86165  
[foerderungen@wirtschaftsagentur.at](mailto:foerderungen@wirtschaftsagentur.at)  
[www.wirtschaftsagentur.at](http://www.wirtschaftsagentur.at)



## Appendix I

### Definition of the term “companies”

Companies will be deemed companies within the meaning of Clause 6.1 of this directive if they

- are registered in the Commercial Register or
- possess a VAT ID or
- can provide evidence of the registration of a proper trade in the central Trade Register or
- can provide evidence of the registration of a proper professional permanent establishment with the competent regional administrative authority or
- if, in particular in the case of sole proprietorships or one-person companies, the proprietor possesses insurance under the Federal Act on Social Security for Persons engaged in Trade and Commerce (*GSVG*), Federal Act on Social Security for Self-Employed Persons in the Liberal Professions (*FSVG*) or the Federal Act on Social Security for Farmers (*BSVG*).

### Definition of the term “Viennese companies”

- Viennese companies are companies that have a permanent establishment in Vienna. The expression "permanent establishment" shall be a fixed business establishment, i.e. the company has power of disposal over certain (of its own or leased) facilities, premises or machinery, through which the company can pursue its business activity, in whole or in part. Within the meaning of defining it more precisely, Article 5 of the OECD Model Convention 2010 on the avoidance of double taxation" applies (see Appendix II).
- Should the requirements of Article 5 OECD Model Convention 2010 be fulfilled, one of the following pieces of evidence will be recognised as evidence of the existence of a permanent establishment in Vienna:
  - Ongoing payment of the municipal tax to the respective Viennese authority (Evidence: City Treasury) or
  - an existing Commercial Register record specifying the Viennese address of the permanent establishment; or
  - an existing registration of the VAT ID in the VAT ID database of the Austrian Financial Administration specifying the address of the Viennese permanent establishment; or
  - an existing registration of a trade in the Trade Register under the Viennese address of the permanent establishment; or
  - an existing registered proper professional domicile or any proper branch registered in Vienna.

Should no evidence be provided in particular by sole proprietorships or one-person businesses for any of the above-mentioned points, but the existence of a Viennese permanent establishment nonetheless be argued, evidence of residence in Vienna is to be provided (to be obtained from the local Inland Revenue responsible for the entrepreneur's place of residence).

Furthermore, in such a case a description of the permanent establishment, as well as the fixed equipment of business, is to be attached to the application. This description shall in particular include the following details:

- the number and size (in square metres) of the rooms at the business premises;
- the function and purpose of the premises (e.g. workspace, meeting room, etc.);
- any fittings and fixtures and machinery that are necessary for carrying on business activities;
- any necessity for or existence of a licence permit for operating equipment;
- the nature of the use of the premises (exclusive or shared with other users);
- the nature of the power of disposal over the premises (lease, sub-lease, ownership).

Should the address of the business premises not be identical to that of the place of residence, the address of the place of residence is also to be given.

## Appendix II

### Definition of the term “permanent establishment”<sup>12</sup>

1. Within the meaning of this convention, the term "permanent establishment" means a fixed place of business through which the business activity of a company is exercised, in whole or in part.
2. The term "permanent establishment" shall in particular include:
  - a. a place of governance of the business and its operations
  - b. a branch office
  - c. a branch
  - d. a production plant
3. A building site or assembly site is only deemed a permanent establishment if its duration of existence exceeds 12 months.
4. Notwithstanding the foregoing provisions of this article, the following will not be considered places of business:
  - a. facilities exclusively used to store, display or deliver goods of the company;
  - b. stocks of goods of the company exclusively maintained for the purposes of storage, display or delivery;
  - c. stocks of goods of the company exclusively maintained for the purpose of being processed or finished by another company;
  - d. a fixed place of business that is exclusively maintained for the purpose of purchasing goods for the company or obtaining information;
  - e. a fixed place of business that is exclusively maintained for the purpose of pursuing other activities for the company, that are of a preparatory nature or constitute ancillary or auxiliary work;
  - f. a fixed place of business that is exclusively maintained for the purpose of pursuing the activities specified under the letters (a) to (e), provided that the overall activity of the fixed place of business arising from the latter is of a preparatory nature or constitutes ancillary or auxiliary work;
5. Should an individual – with the exception of an independent representative within the meaning of paragraph 6 – work for a company and should he or she possess the power to conclude agreements in the name of the company in a contracting state, and should he or she usually exercise the power of attorney, notwithstanding paragraphs 1 and 2, the company will be treated as if it had a permanent establishment in such state for all activities carried out by that individual for the company, unless such activities are limited to the activities specified in paragraph 4, which, if they had been carried out at a fixed place of business, would not have made such an institution a permanent establishment in accordance with the paragraph specified.

<sup>12</sup> Definition in accordance with the OECD Model Convention 2010 on the avoidance of double taxation (Article 5)

6. A company is not already treated as if it had a permanent establishment in a contracting state just because it carries on its business activity there through a broker, commission agent or other independent representative, as long as such persons are acting within the scope of their proper business activity.
7. No company domiciled in a contracting state will be seen as having the permanent establishment of another company just because it controls or is controlled by a company that is domiciled in a different contracting state or (either through a permanent establishment or in some other way) carries on its business activity there.

## Appendix III

### The *de minimis* regulation

The "*de minimis* regulation" is a regulation which limits the permitted overall amount of the "*de minimis*" subsidies granted to a company within a period of three fiscal years to EUR 200,000.00. The European Commission has determined that so-called "*de minimis*" subsidies are not subject to the notification obligation (approval in advance by the Commission in accordance with rules of competition law).

Prior to the subsidy being granted the company in question needs to specify in writing, either in paper form or in electronic form, any "*de minimis*" subsidy that it has received in the preceding two fiscal years, as well as in the current fiscal year.

This brief description merely serves the purpose of initial orientation and is not to be understood as an authentic interpretation of the provision. The definition contained in the Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (published in the Official Journal of the European Union No. L 352/1 on 24/12/2013) as amended or any legal basis taking the place of the latter applies – the regulatory text can be obtained from the Vienna Business Agency upon request, or can be accessed at the following link:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:DE:PDF>